

Department of Labor & Industries
Safety and Health Consultation "DRAFT" Report

Consultation Report for: Ethan Construction LLC
Report No: 502909237
Date of Workplace Visit: 4/1/2004
Consultant Name: Mark Close
Other Consultant(s) on Visit: None
Company Representatives: Erich Vike
Employee Representative: None

What this report contains:

1. Introduction
2. Hazards Identified
3. Evaluation of your company's safety and health program
4. Review of any training provided during the consultation
5. Other Findings and Recommendations
6. Notice of Obligation
7. Applicable Washington Administrative Codes

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I. Introduction

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I appreciated having this opportunity to help you evaluate the safety and health of your workplace. We at WISHA are committed to encouraging voluntary compliance with Washington safety laws by offering technical advice and consultation with employers and their employees.

Definitions of serious and general hazards

The law (RCW 49.17.250) requires you to fix, by a specific date, any serious hazards identified. Also, you must take steps to protect your employees until the serious hazards are corrected.

- ➤ **Serious hazards:** Washington law defines a hazard as serious when there is a substantial probability that death or serious physical harm could result to your employees.
- ➤ **General hazards:** A hazard is general when we determine that there is a probability that an employee could be injured or become ill as a result, but there is no reasonable probability that it could cause death or serious physical harm.

How to report corrections of serious hazards to L&I

I have attached a sheet entitled "Certification of Hazards Corrected". Fill it out as you make your corrections, sign and mail to the address on the form by the correction date.

If you cannot meet your correction deadline

If you are unable to correct any hazard by the agreed correction date, you must request an extension in writing prior to the correction date. Explain for each item you want to extend:

1. The reason why you need additional time
2. What you will do to safeguard your employees from the hazard during the extension period
3. The date you expect to complete the correction

We must verify that you have corrected your serious hazards

If I do not receive your Certification of Hazards Corrected by the correction date, I may do a follow-up visit to verify correction. If you do not correct the serious hazard(s) I found during your consultation, I must refer these hazards to WISHA Compliance. This could result in an unannounced inspection, citation, and possible fines.

Make a copy of this report available to your employees

You are required to share this report with your employees and/or their collective bargaining representatives as soon as possible, but no more than 30 days from receiving it (RCW 49.17.250(3)).

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Make safety and health an ongoing priority in your workplace

Your request for this consultation shows that you are committed to the safety and health of your employees. Make sure you continually self-inspect your workplace for hazards. The findings shown in this report were hazards identified on the day of the consult, and are not necessarily all of the hazards that may be present now or in the future at your work site. Situations and conditions can be different from day to day.

2. Hazards Identified

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In this section, I have listed the hazards identified during my work site visit and my recommendation for correcting the problem. For your convenience, the language of each related WAC is included in section 7. of this report.

Serious Hazards Identified

1. WAC 296-62-07712(5)(a) - (See Section 7 for WAC language)

Hazard Description:

Asbestos containing material (ACM) and presumed asbestos containing material (PACM) debris was left in the refrigeration room in Building #9 and in the tank room in building #7 from uncompleted abatement activities. Instance #1 Refrigerant room Bldg #9, PACM has been left on large diameter pipe and hangers (West Wall). There is presumed asbestos-containing material (PACM) debris on the main floor level (adjacent to steel-stud drywalled temporary wall) and in southwest corner of second level of refrigerant room. Instance #2 Thermal Systems Insulation (TSI), a presumed asbestos-containing material (PACM) exists on piping in pipe debris pile inside tank room, next to entry door in building #7 on 3rd floor. Two rows of tanks in this room are cylindrical with a white coating.

You agreed to correct this hazard by: 05/01/2004

Potential effects of the hazard:

Asbestos is a known human carcinogen and is a respiratory hazard when airborne. Demolition debris contaminated with ACM creates a hazard to those workers during clean-up, disposal and other construction activities.

Recommended action:

Use a licensed and bonded asbestos contractor to clean and perform final abatement of areas with PACM debris. There is to be expected a discovery of additional ACM and PACM than that specified above.

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2. WAC 296-62-07712(5)(b) - (See Section 7 for WAC language)

Hazard Description:

Encapsulant has not been applied to piping and other surfaces from which PACM was removed.

You agreed to correct this hazard by: 05/01/2004

Potential effects of the hazard:

Failure to encapsulate abated surfaces results in leaving residual ACM behind to become air-borne.

Recommended action:

Ensure encapsulation of all abated surfaces. The use of pigmented encapsulants will assist in the determination of adequate coating.

3. WAC 296-62-07721(1)(c)(i) - (See Section 7 for WAC language)

Hazard Description:

Employees must be informed of the presence and location of asbestos containing materials (ACMs) and presumed asbestos containing materials (PACMs).

You agreed to correct this hazard by: 05/01/2004

Potential effects of the hazard:

Failure to inform employees of the presence and location of ACMs and PACMs can lead to the situation where people disturb ACMs or PACMs and be exposed to airborne asbestos.

Recommended action:

Review for accuracy existing asbestos surveys and provide training to employees regarding ACMs and PACMs at your facility.

4. WAC 296-62-07721(1)(c)(ii) - (See Section 7 for WAC language)

Hazard Description:

The good faith survey in existence for the Rainier Brewery location, is dated from 1989 and is not accurate and has not been updated to reflect ACM and PACM abatement/removal. Employees relying on this document are at risk of disturbing ACMs and/or PACMs.

You agreed to correct this hazard by: 05/01/2004

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Potential effects of the hazard:

Disturbing ACM/PACM unintentionally can create an air-borne hazard.

Recommended action:

Update your survey to reflect current status of ACMs and PACMs at your facility.

5. WAC 296-62-07722(1)(c) - (See Section 7 for WAC language)

Hazard Description:

Employees engaged in demolition and other general construction activities at the Rainier Brewery location need to be provide the training listed in WAC 296-62-07722(5) subdivisions (a) thru (k) as applicable to their scope of work.

You agreed to correct this hazard by: 05/01/2004

Potential effects of the hazard:

Employees who work at the Rainier Brewery location may come into contact with ACMs and PACMs during their normal course of work. Demolition of piping and tanking systems, structural breeches and other construction activities may expose these workers to ACMs.

Recommended action:

Upon review of your ACM /PACM "Good Faith" survey provide appropriate training to employees.

General Hazards Identified

No general hazards were found.

2. Evaluation of your company's safety and health program

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None

3. Review of any training provided during the consultation

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None

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4. Other Findings and Recommendations

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Corrections issued in this report are in draft form and do not constitute the final Consultation Report. Asbestos abatement that has allegedly been undertaken at facilities located at the old Rainier Brewery location by other contractor(s) is unfinished and has created additional hazards to those workers on this site.

Secure all areas specified, in the two (2) instances of the first correction, from unauthorized entry until such time that proper abatement can be completed.

5. Notice of Obligation

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You are required to share this report with your employees and/or their collective bargaining representatives as soon as possible, but no more than 30 days from receiving it (RCW 49.17.250(3)).

Information obtained during consultations is confidential from public disclosure under RCW 49.17.250(3). However, a Thurston County Superior Court decision required the department to release consultation reports related to the WISHA Ergonomics Rule under the state's public disclosure laws. In light of this decision, we cannot guarantee the confidentiality of the final report and the information included within it.

We do not share consultant reports with WISHA compliance inspectors unless the employer refuses to correct serious hazards or imminent danger situations.

If, in the future, your workplace is inspected by WISHA compliance, you will not be required to tell the inspector about this consultation or share the report. However, if, during the consultation, we perform any tests for workplace exposures (such as noise levels or air quality) WISHA standards require you to show these monitoring results to the inspector, if requested.

If I give you specific guidance that you follow, you would not be cited if a WISHA inspector later finds my guidance did not address (or adequately address) a hazard. You would still have to fix the hazard by the correction date assigned by the inspector. However, it is possible for an inspector to cite you for a hazard not identified during my consultation. This could be because work conditions changed, we had a misunderstanding, or I may have overlooked the hazard. In such cases the inspector would consider any good faith effort by you in determining the penalty.

6. 7. Applicable Washington Administrative Codes

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1. WAC 296-62-07712(5)(a)

WAC 296-62-07712 Requirements for asbestos activities in construction and shipyard work.

(5) Cleanup.

(a) After completion of asbestos work (removal, demolition, and renovation operations), all surfaces in and around the work area must be cleared of any asbestos debris.

2. WAC 296-62-07712(5)(b)

WAC 296-62-07712 Requirements for asbestos activities in construction and shipyard work.

(5) Cleanup.

(b) Encapsulant must be applied to all areas where asbestos has been removed to ensure binding of any remaining fibers.

3. WAC 296-62-07721(1)(c)(i)

WAC 296-62-07721 Communication of hazards to employees.

(1) Communication of hazards to employees. General industry requirements.(c)

Duties of employers and building and facility owners.

(c) Duties of employers and building and facility owners.

(i) Building and facility owners must determine the presence, location, and quantity of ACM and/or PACM at the worksite. Employers and building and facility owners must exercise due diligence in complying with these requirements to inform employers and employees about the presence and location of ACM and PACM.

4. WAC 296-62-07721(1)(c)(ii)

WAC 296-62-07721 Communication of hazards to employees.

(1) Communication of hazards to employees. General industry requirements.(c)

Duties of employers and building and facility owners.

(c) Duties of employers and building and facility owners.

(ii) Before authorizing or allowing any construction, renovation, remodeling, maintenance, repair, or demolition project, an owner or owner's agent must perform, or cause to be performed, a good faith inspection to determine whether materials to be worked on or removed contain asbestos. The inspection must be

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documented by a written report maintained on file and made available upon request to the director.

5. WAC 296-62-07722(1)(c)

WAC 296-62-07722 Employee information and training.

(1) Certification.

(c) In cases where certification requirements of chapter 296-63 WAC do not apply, all employees must be trained according to the provisions of this section regardless of their exposure levels.

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5. WAC 296-62-07722(1)(c)

WAC 296-62-07722 Employee information and training.

(1) Certification.

(c) In cases where certification requirements of chapter 296-65 WAC do not apply, all employees must be trained according to the provisions of this section regardless of their exposure levels.